## REMARKS

This is a full and timely response to the outstanding final Office Action mailed July 30, 2003. Upon entry of the amendments in this response, claims 25, 33, 36 – 42, 44, 48 – 51, 55 – 57 and 68 - 70 remain pending in the present application. More specifically, claims 69 and 70 have been added, claims 25, 33, 42, 49, 55 - 57 are currently amended and claims 1 - 11, 14 - 21, 23 - 24, 26 - 32, 34, 35, 43, 45 - 47, 52 - 54, 58 - 62 and 64 - 67 are canceled herein without prejudice, waiver, or disclaimer. Applicants take this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicants reserve the right to pursue the subject matter of these canceled claims in a continuing application, if Applicants so choose, and do not intend to dedicate any of the canceled subject matter to the public. It is believed that the foregoing amendments add no new matter to the present application. Reconsideration and allowance of the application and presently pending claims, as amended, are respectfully requested.

### Double Patenting Rejection

The Office Action indicates that claims 29 and 30 stand rejected under 37 CFR 1.75 as being a substantial duplicate of claims 14 and 15, respectively. The Office Action also indicates that claim 64 stands rejected under 37 CFR 1.75 as being a substantial duplicate of claim 62. As set forth above, Applicants have canceled claims 29, 30 and 64 and, therefore, respectfully assert that the rejection has been rendered moot.

**Objections to the Claims**

The Office Action indicates that claims 28, 29, 57, 59, 64, 66 and 67 stand rejected because of various informalities. As set forth above, Applicants have either canceled or amended these claims and respectfully assert that the objection has been accommodated.

**Rejections Under 35 U.S.C. Section 103**

The Office Action indicates that claims 3 – 5, 33, 9 – 11, 24 – 26, 35 – 40, 42, 44, 48, 62, 64, 68, 6, 41, 14 – 18, 29 – 33, 49 – 60, 52, 55, 58, 50, 53, 56, 59, 51, 54, 57 and 60 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Burton* in view of *Yagura*, or alternatively, in view of *Jang*, or alternatively, in view of *Jang* and further in view of *Uchibori*, or alternatively in view *Jang* and further in view of *Maiti*. Applicants respectfully traverse the rejections. Specifically, Applicants respectfully assert that *Burton* is not proper as a reference under 35 U.S.C. 103, because *Burton* meets the requirements of 35 U.S.C. 103(c), which indicates that:

> (c) subject matter developed by another person, which qualifies as prior art only under one or more of sections e, f and g of Section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Applicants respectfully refer the Examiner's attention to the *Burton* reference, which is now assigned to Skyworks Solutions, Inc. Applicants also note that the present application is assigned to Skyworks Solutions, Inc. Applicants assert that "at the time the invention was made," both the subject matter of the *Burton* reference and the subject matter of the present application were owned by and under an obligation of assignment to Conexant. Skyworks Solutions, Inc. acquired both the *Burton* reference and the present application from Conexant.

Because the requirements of 35 U.S.C. 103(c) are met, the *Burton* reference, therefore, cannot be properly applied as a reference for the purpose of rejecting claims under 35 U.S.C. 103. Thus, Applicants respectfully assert that the rejection is improper and respectfully request that the rejection be removed.

**Rejections Under 35 U.S.C. Section 102**

The Office Action indicates that claims 1, 2, 7, 8, 14 – 21, 23, 27 – 29, 30 – 32, 34, 43, 45 – 47, 61 and 65 – 67 stand rejected under 35 U.S.C. §102(e) as being anticipated by *Burton*. As set forth above, Applicants have canceled these claims without waiver, disclaimer or prejudice and respectfully assert, therefore, that the rejection has been rendered moot. Thus, Applicants respectfully assert that the pending claims are in condition for allowance.

**Rejections Under 35 U.S.C. Section 112, Second Paragraph**

The Office Action indicates that the limitation "said refractory layer is substantially free of gold" renders the claims indefinite because the specification lacks some standard for measuring the degree intended. Applicants respectfully traverse the rejection. Specifically, Applicants respectfully assert that the terms "substantially free of gold" are definite because one of ordinary skill in the art would know what is meant by "substantially free of gold." Additionally, Applicants have provided an express indication, within the specification, which emphasizes Applicants' use of the terms "substantially free of gold." Page 9, lines 21 – 26 of the specification discloses:

> Those skilled in the art will appreciate that there has been provided a method of forming contacts on compound semiconductor-based HBTs that minimizes contact resistance, prevents punchthrough of reactive contact metallization, ***reduces raw material costs by eliminating and/or minimizing the use of***

> ***precious metals***, such as gold and platinum, and facilitates manufacturing by reducing the number of metallization layers in the contact structure, without sacrificing device performance and functionality.
> (Emphasis Added).

As set forth above, Applicants have expressly recited a particular motivation or standard by which the terms "substantially free of gold" can be measured. Therefore, Applicants respectfully assert that the rejection is improper and should be removed.

Additionally, Applicants note that the *Burton* reference, which has been applied in the Non-Final Office Action, also includes the terminology "substantially free of gold" in several of its claims.

**Prior Art Made of Record**

The prior art newly made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

## CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed and/or accommodated, and that the now pending claims 25, 33, 36 – 42, 44, 48 – 51, 55 – 57 and 68 – 70 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephone conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

10/29/03

Stephanie Riley

Signature